

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TRUSTEES OF ABATEMENT WORKERS
REGIONAL LOCAL UNION NO. 207 HEALTH
WELFARE FUND, et al.,

Plaintiff,

v.

CASE NO. 05-73916
HON. LAWRENCE P. ZATKOFF

ALPHA-OMEGA CHEMICAL COMPANY, a
foreign corporation, AND GEORGE W. JACKSON,
an individual, jointly and severally,

Defendants.

ORDER DISMISSING PLAINTIFFS' STATE LAW CLAIM

Plaintiffs filed their Complaint on October 12, 2005. Plaintiffs' Complaint contains the following three counts:

- Count I Delinquent Fringe Benefit Contributions;
- Count II Violation of Michigan Building Contract Fund; and
- Count III Breach of Fiduciary Duty.

See Complaint.

The Court has subject matter jurisdiction over Counts I and III, because they arise under federal law. *See* 28 U.S.C. § 1331. Count II, however, is based upon state law. Although the Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367(a), the Court may decline to exercise supplemental jurisdiction if there are "compelling reasons for declining jurisdiction." *See* 28 U.S.C. § 1367(c)(4). The Court declines to exercise supplemental jurisdiction over Plaintiffs' state law claim in this matter. The Court finds that the contemporaneous

presentation of Plaintiffs' parallel state claim for relief will result in the undue confusion of the jury. *See* 28 U.S.C. § 1367(c)(4); *see also Padilla v. City of Saginaw*, 867 F. Supp. 1309, 1315 (E.D. Mich. 1994).

Accordingly, IT IS ORDERED that Plaintiffs' state law claim regarding the Michigan Building Contract Fund Act (Count II) is hereby DISMISSED without prejudice. The Court retains jurisdiction over Plaintiffs' federal claims (Counts I and III).

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: October 28, 2005

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on October 28, 2005.

s/Marie E. Verlinde
Case Manager
(810) 984-3290